THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.432 of 2007

Date 13.11.2007

Between:
A.Udaya Rajulu.

..... PETITIONER

AND

The District Collector, E.G.District & others.

.....RESPONDENT

THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.432 of 2007

O R D E R:

Heard the learned counsel for the petitioner and the learned Government Pleader for Panchayat Raj and Rural Development and the learned counsel appearing for respondents 3 and 4.

Brief facts of the case are that the fourth respondent-Sri Vasavi Kanyaka Parameswari Arya Vysya Sangam is a registered society under the Societies Registration Act and it purchased plot Nos.18 and 19 in Sy.No.633 of Rajampet Town, Kadapa District on 10-11-2000. The fourth respondent submitted an application for construction of the building to the Panchayat Secretary, Rajampet Gram Panchayat for construction of Dhyana Mandiram. The Gram Panchayat approved the construction of building plan vide proceedings No.BLR No.117/2003, dated 02-08-2003. The petitioner purchased semi constructed building in plot No.25 on 19-02-2004 i.e three years later than purchase of land by the fourth respondent. As against the sanction of building permit for construction of Dhyana Mandiram vide proceedings No.BLR No.117/2003, dated 02-08-2003 of the Panchayat Secretary, Rajampet Gram Panchayat, the petitioner filed a petition before the District Collector (PTs) Kadapa and the District Collector, by order in Roc No.4447/2003-A2 (PTS) dated 24-12-2003 cancelled the permission granted for construction of Dhyana Mandiram and directed to stop further construction.

Learned counsel appearing for the fourth respondent submits that the order of the District Collector dated

24-12-2003 was passed without issuing any notice to the fourth respondent and that the said order is without jurisdiction as Dhyana Mandiram is not a temple within the meaning of the A.P. Charitable and Hindu Religious Institutions & Endowments Act, 1987.

As Dhyana Mandiram is like any other private building and sanction of building permission by Panchayat Secretary, Rajampet Gram Panchayat cannot be found fault with, question of obtaining prior approval of the District Collector does not arise. It is the case of the fourth respondent that as the representation made by it on 22-02-2006 before the District Collector was not disposed of, he filed W.P.No.9153 of 2006 before this Court and this Court, by order dated 28-04-2006, disposed of the said writ petition directing the first respondent therein to consider and dispose of the representation dated 22-02-2006, in accordance with law, within a period of six weeks from the date of receipt of a copy of the said order. Pursuant to the said order of this Court, the District Collector (PTs) Kadapa considered the representation of the fourth respondent and passed orders in Roc.No.2027/A4/2006 dated 15-09-2006 permitting the fourth respondent to proceed with the incomplete construction of the building. It further observed that as the Rajampet town has been upgraded to the Municipality, it ordered to start construction in consultation with the municipal authorities. Petitioner questions the said order dated 15-09-2006 contending that though he filed a grievance petition earlier before the District Collector and at his instance, the District Collector had passed the orders dated 24-12-2003, the District Collector ought not to have passed order dated 15-09-2006 without giving him any notice or affording an opportunity of hearing.

Learned counsel appearing for the fourth respondent submits that in respect of sanction of the building permission for construction

of Dhyana Mandiram prior approval of the District Collector is not at all required.

Learned Government Pleader submits that prior approval is required under the A.P. Charitable and Hindu Religious Institutions & Endowments Act, 1987.

Learned counsel for the petitioner submits that the petitioner was not heard before passing the impugned order and, therefore, the matter requires to be reconsidered.

Having regard to the facts and circumstances of the case, without expressing any opinion on the merits of the case, both the orders of the District Collector in proceedings No.4447/2003-A2(PTs) dated 24-12-2003 and L.Per.No.2027/A4/2006 dated 15-09-2006 are set aside and the matter is remitted back to the first respondent-District Collector, Kadapa directing him to issue notice to the petitioner as well as to the fourth respondent and pass appropriate orders as to whether the proceedings

No.BLR No.117/2003, dated 02-08-2003 of the then Panchayat Secretary, Rajampet Gram Panchayat are valid or not and whether prior approval of the District Collector is required for construction of Dhyana Mandiram in accordance with the provisions of the then Panchayat Raj Act and the Rules made thereudner and the orders of the Government issued from time to time.

Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

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13-11-2007

Note:Furnish copy within three days

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